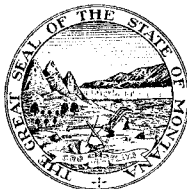


State of Montana



SENATE FINANCE & CLAIMS ³

Exhibit No. 3

Date 4-17-07

Bill No. SB 569

First Judicial District Court

Lewis and Clark County

Hon. Thomas C. Honzel

Hon. Dorothy McCarter

Hon. Jeffrey M. Sherlock

TO: Members of the Senate Judiciary Committee

FROM: Judge Dorothy McCarter, First Judicial District *Dm*

DATE: April 16, 2007

SUBJECT: Senate Bill No. 569

I regret that I am unable to appear in person this morning because I am scheduled to be in court. On behalf of the Montana Judges' Association, I ask that you amend SB 569 to remove the provisions permitting a judge to question the propriety of an assignment of counsel by the Office of the State Public Defender and to deny an assignment.

In 2005, the Montana Legislature wisely removed the courts' responsibility for assigning counsel for indigent persons. Enactment of SB 596 would be a step backward. We believe that the amendments to Sections 47-1-104 and 47-1-111, MCA, would place judges in the uncomfortable position of "managing" the resources of the Public Defender's Office, which is statutorily obligated to make decisions about indigence. Individual judges – at all court levels – do not have information or time to second guess these decisions. Additionally, these amendments may create a conflict of interest that the 2005 legislation was intended to eliminate.

The Montana Judges' Association respectfully requests the Committee to remove the proposed amendments authorizing judges to deny an assignment of counsel.